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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,690	12/27/2005	Alain Bourgeois	0517-1066	3789

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EXAMINER

KRUER, STEFAN

ART UNIT PAPER NUMBER

3654

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/562,690

Applicant(s)

BOURGEOIS, ALAIN

Examiner

Stefan Krueer

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5 - 13 is/are rejected.
- 7) ☒ Claim(s) 2 and 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>27 December 2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

Claim 1 is objected to because, as provided in 37 CFR 1.75(i), each element or step of the claim should be separated by a line indentation. Additionally, the concept of the use of "...and respectively...." is understood, however the sentence structure is unnecessarily lengthy and awkward.

In **Claims 1 - 13**, the term "characterized in" is objected, in that an element that is "characterized in" perform a function is not a positive limitation and only requires the ability to so perform, in re Hutchinson 69 USPQ 138.

In **Claims 1, 5 and 7**, the use of modifier "free" to describe the pivoting and/or translating ability of the ends of the arms of the instant invention is recommended for replacement by either the modifier "non-fixed", one of similar meaning, or none, the latter preferably resulting in stating "first and second ends", in that the ends of the arms are not restrained of motion in all planes and, therefore, they are not "free".

In **Claim 7**, the term "lumen" is objected, in that a "lumen" is an *internal* opening or passage of a member, such as a cavity of a cell or longitudinal bore of a tubular member. A suitably preferable term is "slot" or "elongated slot".

Appropriate corrective actions are required.

Specification

The disclosure is objected to because of the following informalities:

The disclosure states a single connecting bar (23, Pg. 7, Line 27 and Fig. 4) whereas **Claim 5** claims a plurality of said bar.

Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the *connecting bars* (23) must be shown or the features canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding **Claim 1**, the phrase "i.e." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Further to **Claim 1**, "...their median part..." is indefinite in that a median part lacks a definite orientation.

Additionally to **Claims 1 and 3**, the limitations of the platform that “extends” at an upper and lower level (Lines 25 and 26) are improper in view of the disclosure. Recommendation for “is positioned” or “extends from” in lieu of “extends at” is offered.

In **Claims 1 - 13**, the placement of numerical designation following the claimed item, including components, points of reference or devices, does not obviate the need for placement of articles or modifiers in advance of the claimed item, for purpose of averting a lack of antecedent basis and/or promoting clarity.

For example, in **Claim 1**, “shaft” of Line 10 and “platform” of Line 24 are not preceded by the article “the” or modifier “said”. There are insufficient antecedent bases for these limitations in the claim.

Identically, in **Claims 5, 7, 8 and 10**, the claim components, such as “connecting bars”, “frame”, “shaft”, “hinges”, and “platform”, respectively, fail to have precedent articles or modifiers, thereby compromising the clarity and definitiveness of the claims and/or having limitation(s) that lack antecedent bases.

Regarding **Claim 6**, the portion “...so that the pivot pins of the connecting rod (21) with rod (20) of ram (19), of connecting rod (21) with the first arm (11a) and of said first arm (11a) with shaft (2) are never aligned...” is poorly worded and therefore indefinite. It is recommended that the verbal phrase “...are never aligned...” be either integrated earlier into the dependent clause and/or the clause be entirely re-written to eliminate the ambiguities and clearly claim the intent of non-aligning interdependency of specific components of the instant invention. See MPEP § 2173.05(d).

Regarding **Claims 9 and 10**, the respective possessive pronoun “its” and pronoun “it” are indefinite for failing definitively state to which component the subsequent limitation(s) applies.

Furthermore, pursuant to clarification, “body” of **Claim 9** lacks antecedent basis.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As previously reviewed, Claim 5 claims a plurality of connecting bars whereas the specification discloses a single connecting bar between arms 11b and 12b to afford the simultaneous actuation of arm 12b through the actuation of arm 11b.

The line in Figure 4 used to depict said connecting bar(s) is drawn beyond the plan view of the platform and therefore in contradiction with the claimed linking of arms 12b and 11b that are mounted immediately proximate the plan view of the platform.

Allowable Subject Matter

Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 3 and 6 – 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 2 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571.272.6951. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK
14 June 2006


KATHY MATECKI
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